

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>ANTHONY EDWARD OLIVER ,</b>	:	<b>CIVIL ACTION NO. 3:16-cv-0407</b>
	:	
<b>Plaintiff</b>	:	<b>(Judge Munley)</b>
	:	
<b>v.</b>	:	
	:	
<b>JOHN WETZEL, et al.,</b>	:	
	:	
<b>Defendants</b>	:	

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**ORDER**

**AND NOW**, to wit, this 29<sup>th</sup> day of September 2017, upon consideration of Defendants' motions (Docs. 50, 51) to dismiss, and for the reasons set forth in the Court's Memorandum of the same date, it is hereby ORDERED that:

1. Defendants' motions (Doc. 50, 51) are GRANTED inasmuch as any and all claims that arose in 2013 are DISMISSED as barred by the statute of limitations.
2. The Commonwealth Defendants' motion (Doc. 50) pursuant to Federal Rule of Civil Procedure 12(b)(6) is GRANTED in part and DENIED in part.<sup>1</sup>
  - a. The motion is GRANTED with respect to the claims against Defendants Eckard, Tice, Himes, Cook, Kyle and Wetzel. The Amended Complaint against these Defendants is DISMISSED. The Clerk of Court is directed to NOTE on the docket that these Defendants are TERMINATED.

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<sup>1</sup> Oliver sets forth three counts in his Amended Complaint, each raising constitutional claims. To the extent that he included a wholesale conspiracy claim, that claim has been addressed and dismissed. Defendants construe Oliver's Amended Complaint to include a myriad of other claims. However, the Court will limit disposition to Oliver's three articulated counts specifically identifying constitutional claims.

- b. The motion is GRANTED with respect to Count Two and any and all official capacity and conspiracy claims lodged against the remaining Commonwealth Defendants, L. Oliver, Smart, Treweek, Yohn, and Stevens.
  - c. The motion is DENIED as to Count One against remaining Commonwealth Defendants L. Oliver, Smart, Treweek, Yohn and Stevens.
  - d. The motion is DENIED as to Count Three against remaining Commonwealth Defendant L. Oliver.
  - e. The motion is DENIED in all other respects.
- 2. Remaining Commonwealth Defendants L. Oliver, Smart, Treweek, Yohn and Stevens, shall file a responsive pleading to Counts One and Three in accordance with the Federal Rule of Civil Procedure 12(a)(4)(A).
- 3. The Medical Defendants' motion (Doc. 51) pursuant to Federal Rule of Civil Procedure 12(b)(6) is GRANTED in part and DENIED in part.
  - a. The motion is GRANTED with respect to Counts One and Three.
  - b. The motion is DENIED with respect to Count Two.
  - c. The motion is denied in all other respect.
- 3. Medical Defendants, Kollman, McConnell, and Gomes, shall file a responsive pleading to Count Two in accordance with the Federal Rule of Civil Procedure 12(a)(4)(A).

**BY THE COURT:**

**s/James M. Munley**  
**JUDGE JAMES M. MUNLEY**  
**United States District Court**